

# Anadarko Daily Democrat.

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ANADARKO, CADDO CO., OKLA., MAY 15, 1902.

NO. 210.

## The FAIR

### Dress Goods.

Mr. J. J. Ewing, formerly of the Dress Goods Department of Rice, Stoy & Co. St. Louis, has now charge in our Dress Goods Department. In him we place a thoroughly experienced dress goods man to the service of the ladies of Anadarko. He will be pleased to show you what we have in dress goods.

Scotch Lawn 5 to 15c  
Egyptian Tissues 25 to 35c  
Mercerized and Silk Fordard 22, 30 and 35c

Silk mixed Gingham 25 to 35  
Point Suisse 20 to 25c  
Fine Dimities 8, 10, 12 1/2 to 18c  
The latest in wash silk 50c to \$1.00

And hundreds of other fabrics which we cannot mention

Anything which we should not have in stock we will always be pleased to order samples for your consideration.

### To the Mothers.

You have the boy, we have the boys suit. What we want is to get the boy inside the suit. We will do so at a price that will not be much of a strain on your pocket book.

### Boys Suits.

The newest and swellest patterns in Norfolk suits for little fellows from 4 to 10 years, \$2.00, \$3.00, \$3.50 up to \$6.00.

Boys two and three piece Knee Pant suits for boys 4 to 16 years, \$1.00, \$1.50, \$2.00, \$3.00, \$3.50 up to \$6.00

Young Men's Suits, 14 to 20 years, \$1.00, \$8.00, \$7.50, \$5.00 down to \$3.00

You can save money by buying that boy's clothing from us, and what you save will come in handy to buy him a pair of shoes.

Let us Show you

Our Line.

The Fair



The Fair  
L. NATHAN, PROP.

## CRAWFORD, JAY & CO.

Will be open for business in their new brick building on B St. next to the Fair, on or before May 10th, with a new and complete stock of

Staple and  
Fancy

## GROCERIES.

SOLE AGENTS FOR

Chase & Sanborns

Famous Boston Roasted Coffee.

Fancy bottled goods and California canned and dried fruits. invite you to call and inspect our stock and respectfully solicit are of your patronage. Courteous treatment assured to all honest goods at fair prices.

Telephone No. 105.

Free Delivery.

## MOMENTUS DECISION

Atty. General Roberts  
and Secretary of the  
Interior

## AGREE ON THE DECISION

That Sheriff, Probate Judge and  
Register of Deeds Cannot Col-  
lect Salaries from County  
Funds.

The following letter which we publish through the courtesy of County Clerk Dyke Ballinger, contains a legal opinion by Attorney General Roberts which is so momentous and far reaching in its effects that we copy it in full. In substance it declares that in no case can the Probate Judge, Register of Deeds or County Sheriff collect any part of their salaries from the county treasurer. If true, it only allows Sheriff Thompson, with which to pay his salary and expenses and those of his deputies for the past three months the sum of \$45.30.

The following extract from a decision of the Secretary of the Interior emphasizes the same point as the letter:

"From this statement of the provisions of law governing the matter of salaries it is clear that the salaries of the sheriffs, probate judges and registers of deeds for those counties are to be paid wholly from fees and therefore are not a charge against the county, and cannot be paid from the town lot fund."

Guthrie, Okla., May 6, 1902.

HON. CHARLES L. CRUM,

Dear Sir: Your favor of the 12th ultimo, to the Attorney General, was received but owing to press of business and the seriousness of the question involved, an earlier answer was impossible. I have lately taken the opportunity to examine, as fully as I am permitted, into the authorities and have come to the conclusion as contained below.

The question which you present is, whether, under the statutes of 1893-1895-1897, you are entitled to hold the county liable for fees earned by you in criminal cases under the jurisdiction of the justice of the peace. Your position is that your fees for such cases are fixed by section 1569 of the Laws of 1893 and that the fee and salary statutes of 1895 and 1897 are not applicable to your case, because they do not specifically mention probate judges. Your contention being that the construction to be given the said section 1569 should be that the probate judge is entitled to such fees as are by law prescribed for justices of the peace, viz: such as are prescribed at the time of the passage of the Act last above referred to.

This position I consider untenable. This point has been judicially determined by the supreme court of Texas in a case very similar to this, reported in the 57 Tex. at page 205. In this case the defendant in error, Cook, had been appointed judge of the criminal district court of Galveston and Harris counties on the first day of January, 1879, under an act entitled "An Act to organize and define the powers of the criminal district court in and for the counties of Galveston and Harris and to prescribe the duties thereof."

It was provided in this Act that "there shall be appointed by the governor by and with the advice of the senate, a judge of said court who shall hold his office for four years and until his successor is duly qualified and shall receive the same salary as the judges of the district courts." At the time of the appointment of Cook, judges of the district court were entitled to the salary of \$3,500.00. Later, in 1880, the salary of a district judge was reduced from \$3,500.00 to \$2,500.00. Cook was paid by the county commissioners, the sum of \$2,500.00 for the year of his

services, which he received and then brought an action for the balance between \$3,500.00 and \$2,500.00 claiming, similar to your contention, that a reduction in the salary of the district judges did not serve as a reduction of his own. We quote from the opinion as follows:

"At that time judges of the district court were entitled to a salary of \$3,500.00, and it seems to be claimed that the effect of this statute is the same as if its language had been, 'the judge of the criminal district court shall receive a salary of \$3,500.00 annually.' In our opinion both the letter and the spirit of the statute require a different construction, the legislative intention, as expressed directly and as implied from the context, being to place this criminal district court and its officers, as far as practicable, on terms of equality with other district courts and their officers, and to make the salary of the judge conform to, and dependent upon, the salary of 'judges of the district courts.' The same act created the office of district attorney for that court, and prescribed that 'the duties of said attorney shall be the same in said court as other district attorneys in the district courts, and he shall receive the same salary.' 2 Pasch. Dig., art. 6141. It is significant of the legislative construction of the last clause of this article, that on the subsequent reduction of the salary of district attorneys from \$1,200 to \$500, the appropriations for the salary of the criminal district attorney were at once reduced to the latter named sum. So the act provided of this district attorney, and of the clerk of said court, that their fees 'shall be the same as allowed by law to clerks and attorneys of the district courts.' It would scarcely be claimed that the fees of these officers were fixed so as to remain unchanged, notwithstanding subsequent changes of the fees allowed clerks and district attorneys of the district courts. In pursuance of the same prevailing purpose of placing the criminal district court on terms of equality with the district courts, it was enacted in 1871 that: 'It shall be lawful for the judge of said criminal district court to exchange or alternate with any district judge—in all criminal matters.' Upon this adjudication this office is inclined to reply for the point decided by it. You then, following this decision are entitled in criminal cases, to the fees of the justice of the peace, not as they were in 1893 but as they have since been established by the Fee and Salary Act of 1897. I am further strengthened in this view by reason of the fact that the Act of 1895 specifically and in terms, repeals the Fee and Salary Act of 1893 and is, in its turn, repealed by the Fee and Salary Act of 1897 and also 'all Acts and parts of Acts in conflict with it' are by those several acts repealed. Under this view the fees of the probate judge for criminal matters, in so far as they are fixed by the Act of 1893, changed by the later Acts and later expressions of the legislative will, by the Acts of 1895 and 1897.

Whether or not you are justified in charging in criminal matters the fees allowed by the Act of 1897 to justices of the peace, you are not entitled to collect this amount from the county. As authority for this position, I cite the case of Christ vs. Polk county, 48 Iowa, 302. I quote from the opinion rendered in the case sufficient to give you an idea of the point decided and the reasoning upon which it was based. "The plaintiffs claim for fees, as against Polk county, is based upon section 536 of the Code. That section provides that a city marshal 'shall have, in the discharge of his proper duties, like powers, be subject to like responsibilities, and shall receive the same fees as sheriffs and constables in similar cases.' The plaintiff claims that he has performed services of the same character as those which devolve upon a sheriff, and that the fair meaning of the statute is that in such cases he shall not only receive the same amount of fees, but shall receive them from the same source.

So far as the source is concerned from which the fees are receivable (and this is the only question which we propose to consider) we do not think that the statute is susceptible of the construction which the plaintiff would put upon it. Holding then, that it is not

provided by statute that the county is liable, we do not think it can be so regarded. It is urged however, by plaintiff that an express provision is not necessary. It is said that there are many public officers for whom the statute makes no express provision as to the source from which payment for their services is to be derived, and that the logical result of the doctrine enunciated would deprive such officers of all payment for their services. To this we think it may be said that in the absence of such provision the source of payment would ordinarily be sufficiently indicated by the character of the services or the character of the office. The services for which payment is sought in this case, were rendered by the plaintiff, as marshal of the city of Des Moines. His office was a city office. Ordinarily city officers are presumed to be payable, not by the county but by the city. Such a presumption must prevail in this case, in the absence of an express provision, unless there is something in the character of the services which calls for a different determination."

At any event and whatever may be the construction finally placed by our courts upon the various sections referred to, it will possibly make very little difference upon the total receipts by you from your office. \* \* \* \* \*

Respectfully yours,

J. C. ROBERTS,

Attorney General.

If this opinion of the attorney general is a correct construction of the law it will necessitate the immediate resignation of every sheriff in Oklahoma, for under such an unjust and absurd ruling the emoluments of the office would not even pay the salary of the cheapest deputy in its service. The expense of conducting the sheriff's office in Caddo County will well illustrate the question and the injustice of the decision.

When Sheriff Frank Smith was killed, the outlaws took from his person, \$50 the last of a thousand he had borrowed and used in conducting the sheriff's office. His estate will have to repay this money and under the ruling of the Atty. General they can not recover it, for it would be illegal to pay it from county funds and the criminal fees of the office, small as they were, had all been used by Smith previous to being forced to borrow the thousand, and now the widow and orphans of this brave officer must lose the money he borrowed and spent in preserving order and protecting the citizens of Caddo county. On January 23rd Sheriff Thompson was sworn into office as the successor of Smith. In meeting the expenses incident to the proper discharge of the duties of his office, he has spent the \$800 he received for his claim and an additional \$300 besides.

As required by law he presented to the county court a sworn statement of his fees and expenses aggregating \$1000. The County court acting in conformity with the decision of Atty. General Roberts has disallowed the bill.

Now, under this carpet bag, unjust and absurd decision of the Attorney General of Oklahoma, the sheriff can only secure such remuneration as the fees collected in criminal and civil suits will aggregate. Under the law the sheriff is to receive \$700 per quarter as his salary. Let us see from his sworn statement how near the fees he has collected will come to paying this sum.

Total fees earned in civil suits from Jan. 23 to March 31.... \$ 91.25  
Total criminal fees earned for the same period..... 665.09

Total..... \$756.35

Total fees collected in civil suits..... \$ 12.15

Total fees collected in criminal suits..... 33.15

Total..... \$ 45.30

On that basis the third month of the quarter would net... 22.65

Or a total collected for the quarter..... \$ 67.95

This munificent sum will have to pay the salary of the sheriff, undersheriff, several deputies and all their combined expenses for the past three months.

Sheriff Thompson traveled 1180 miles to land behind the bars the two men, Mobley and Williams, who were